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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,067	03/12/2001	Lawrence Gene Costello		7199

7590 03/09/2007  
LAWRENCE GENE COSTELLO  
720 N. ADELE # 4  
ORANGE, CA 92867

EXAMINER
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WONG, LESLIE A

ART UNIT	PAPER NUMBER
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1761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Notice of Abandonment

Application No.

09/803,067

Examiner

Leslie Wong

Applicant(s)

COSTELLO ET AL.

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 18 April 2005.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

A copy of the Petition Decision is attached.



Leslie Wong  
Primary Examiner  
Art Unit: 1761

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



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APR 18 2005

Mailed: \_\_\_\_\_

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Paper Number: \_\_\_\_\_

In re application of :  
Lawrence G. Costello : DECISION ON  
Serial No. 09/803,067 : PETITION  
Filed: March 12, 2001 :  
For: PROCESS FOR TREATING JUICES WITH ULTRAVIOLET  
ACTIVATED OXYGEN:

This is a response to the PETITION TO REVISE APPLICATION 09/803,067 PER RULE 37 CFR 1.181 (NOTICE OF ABANDONMENT), filed September 13, 2004. The petition requests that the abandonment, as set forth in the Notice of Abandonment of August 06, 2004, for the fact that the Reply filed January 08, 2003 does not constitute a proper reply to the Office letter dated December 10, 2002 be withdrawn. The petitioner asserts that there has been a communication problem between applicant and the Patent Office, and the applicant filed a response to the Office letter of December 10, 2002 on January 08, 2003.

**DECISION**

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

A review of the instant application file shows that the examiner issued an Office letter dated December 10, 2002 indicating that the reply filed September 26, 2002 does not address the rejection of record and the amendment filed September 26, 2002 does not comply with the requirements of 37 CFR 1.121(c), and setting a time period of one-month or thirty days from December 10, 2002 for reply. On January 08, 2003, the applicant filed a Request for a 30 days extension of time for the reply without authorizing the USPTO to charge the extension fee as required by 37 CFR 1.136(a). On January 21, 2003, the applicant filed a reply including a substitute specification and abstract, corrected drawings and amended claims. However, the Reply filed January 21, 2003 does not address the rejection of



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record. Since the applicant did not pay the 30 days extension fee starting from January 11, 2003 according to 37 CFR 1.136(a), the Reply filed January 21, 2003 is untimely. Furthermore, the Reply filed January 21, 2003 still does not address the rejection of record according to 37 CFR 1.111.

However, it is noted that the replies filed on January 08, 2003 and January 21, 2003 appear to be *bona fide*, therefore, the abandonment is hereby withdrawn, and the application is returned to pending status. The applicant is given a TIME PERIOD of **ONE (1) MONTH** or **THIRTY (30) DAYS** from the mailing date of this Decision, whichever is longer, within which to submit a proper reply including a response to the rejection of records in compliance with 37 CFR 1.111, an amendment in compliance with 37 CFR 1.121 and CFR 1.185(a) and submit the one month extension fee according to 37 CFR 1.136(a). The applicant is advised to consult a registered attorney or a registered agent for further assistance regarding to the requirement of U.S. patent law and procedures.

The Petition is **GRANTED**.

A handwritten signature in cursive script, appearing to read "J. Stone", is written over a horizontal line.

Jacqueline Stone, Director  
Technology Center 1700  
Chemical and Materials Engineering

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